



Agricultural Marketing Service

9 CFR Parts 201 and 203

[Doc. No. AMS-FTPP-21-0015]

RIN 0581-AE01

Preserving Trust Benefits Under the Packers and Stockyards Act

AGENCY: Agricultural Marketing Service, Department of Agriculture (USDA).

ACTION: Proposed rule; request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to revise the regulations providing instructions for livestock sellers and live poultry sellers or growers who desire to preserve their interest in statutory trusts under the Packers and Stockyards Act (Act). The proposed revisions would add procedures and timeframes for a livestock seller to notify the livestock dealer and the Secretary of Agriculture that the seller has not received full payment for livestock purchased by the dealer and that the seller intends to preserve its trust interests. Additionally, under this proposed rule, livestock dealers with average annual purchases over \$100,000 would be required to obtain written acknowledgement from livestock sellers that trust benefits do not pertain to credit sales and would be required to maintain records related to credit sales. The proposed revisions to the Packers and Stockyards regulations reflect recent amendments to the Act that provide for a livestock dealer trust.

DATES: Comments received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] will be considered prior to issuance of a final rule. Pursuant to the Paperwork Reduction Act (PRA), comments on the information collection burden must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. All comments must be submitted through the Federal e-rulemaking portal at <https://www.regulations.gov> and should reference the document number and the date and page number of this issue of the **Federal Register**. All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: S. Brett Offutt, Chief Legal Officer/Policy Advisor; Packers and Stockyards Division, USDA AMS Fair Trade Practices Program; phone: 202-690-4355; or email: S.Brett.Offutt@ams.usda.gov.

SUPPLEMENTARY INFORMATION: Section 763 of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260; December 27, 2020), amended the Packers and Stockyards Act, 1921, as previously amended (7 U.S.C. 181 *et seq.*), by adding a new section 318 (7 U.S.C. 217b) establishing a statutory trust for the benefit of unpaid cash sellers of livestock.

Under the new trust provisions, livestock dealers whose average annual purchases of livestock exceed \$100,000 must hold all inventories of and receivables and proceeds from livestock purchased in cash sales in trust for the benefit of all unpaid cash sellers of that livestock until the cash sellers have been paid in full. Livestock sellers lose their interest in the trust unless they notify livestock dealers and the Secretary of Agriculture (Secretary) in writing that payment has not been received. Such notice must be provided within 30 days of the final date when payment was due or within 15 days of notice that a dealer's payment instrument has been dishonored.

The newly added section 318 of the Act further provides that the dealer trust provisions apply only to cash sales, which are defined in the statute as sales in which the

seller does not expressly extend credit to the buyer. Thus, livestock sellers have no claim against the trust if they have extended credit to the buyer.

Currently, § 203.15 of the Packers and Stockyards regulations outlines the process by which livestock sellers and live poultry sellers and growers preserve their interest in the packer and poultry trusts previously established under the Act (see 9 CFR 203.15). AMS proposes to revise § 203.15, which would continue to provide for preservation of trust benefits under the packer and poultry trusts, by adding the process by which livestock sellers can preserve their interests under the new livestock dealer trust. Sections 206, 207, and 318 of the Act (7 U.S.C. 196, 197, 217b) require livestock sellers and poultry sellers or growers to notify packers, live poultry dealers, or livestock dealers and the Secretary in writing of their intent to preserve their trust benefits within 30 days of the final day on which payment was due or within 15 days of receiving notice that the packer's, live poultry dealer's, or livestock dealer's payment instrument was dishonored. Accordingly, the revised § 203.15 would outline how sellers and growers can comply with the statutory requirement. The written notification should state that notification is to preserve trust benefits; identify both parties in the transaction; and include the date of the transaction, the date notice was received that the payment instrument was dishonored (if applicable), and the amount of money due. Written notification may be by letter, fax, email, or other electronic transmission, preferably filed with the Packers and Stockyards Division of AMS. Section 203.15 of the regulations still provides that while the written notification described above is preferred, any written notice to the buyer and the Secretary that the seller has not received full payment is sufficient to meet the statutory requirement if it is given within the prescribed timeframes. Finally, § 203.15 would be revised to include the statutory definition of a cash sale, meaning a sale in which the seller does not expressly extend credit to the buyer.

Section 201.200 of the regulations currently prohibits packers whose average annual livestock purchases exceed \$500,000 from entering into credit agreements with livestock sellers unless the packer obtains written acknowledgement from the seller that the seller has no trust rights with respect to each particular sale under a credit agreement. Under the proposed revisions for this rule, § 201.200 would also prohibit livestock dealers whose average annual livestock purchases exceed \$100,000 from entering into credit agreements with livestock sellers unless the purchasing dealer obtains written acknowledgement from the seller that the seller has no trust rights with respect to each particular sale under a credit agreement. The seller's written acknowledgment statement would further provide that the credit agreement covers a single sale, remains in effect until a specified date, or remains in effect until it is canceled in writing by either party. The seller's acknowledgement would be dated and signed by the seller. The purchasing livestock dealer would be required to maintain records of the acknowledgement, as well as all other documents related to the credit agreement, for as long as required by any law or by the AMS Administrator, but for no less than two years following the expiration of the credit agreement referred to in the acknowledgment. Finally, the purchasing dealer would be required to provide a copy of the acknowledgment to the seller.

Average annual livestock purchase amount may be determined by information establishing actual yearly dealer purchases, or a dealer's purchases as stated on its most recent annual report filed pursuant to the requirements of 9 CFR 201.97. Average annual livestock purchase amount may be determined for new dealers that have not operated for a year's time and for dealers that have not filed an annual report in the prior two years, according to their actual livestock purchases for the current year to date, extrapolated to a yearly amount, if necessary. In general, the proposed new requirements for livestock dealers in § 201.200 are similar to the current requirements for packers who enter into credit agreements with livestock sellers.

Regulatory Analyses

Executive Orders 12866 and 13563

AMS is issuing this proposed rule in conformance with Executive Orders (E.O.) 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulations are necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

AMS believes that the livestock industry is best served by revising the existing regulation at 9 CFR 203.15 that addresses preserving packer and poultry trust benefits under the Act to include provisions related to the new livestock dealer trust. The industry is already familiar with the notification process. AMS anticipates that additional costs or the adoption of new practices related to compliance with the proposed rule would be minimal. Livestock sellers can use the instructions in this proposed rule to most efficiently file notice with dealers and AMS of their intent to preserve trust benefits. However, this proposed rule would also provide flexibility because the proposed revisions allow that any written notification to dealers and the Secretary within the prescribed timeframes that the seller has not received full payment for livestock will meet the statutory requirement. Furthermore, AMS believes that including the statutory definition of “cash sale” in § 203.15 can help sellers better understand the conditions under which they can preserve their trust benefits.

Regarding proposed revisions to § 201.200, AMS believes that both buyers and sellers benefit when livestock dealers with more than \$100,000 average annual purchases are required to obtain written acknowledgment from sellers that trust benefits do not extend to livestock purchases under credit terms, and to maintain all records related to

such sales, including the written acknowledgement. Obtaining the written acknowledgement, as well as providing the seller with a copy of the written agreement and maintaining pertinent records, demonstrates that both parties understand the conditions of credit sales as they relate to dealer trust benefits. AMS does not expect the proposed rule to provide any environmental, public health, or safety benefits.

This proposed rule does not meet the criteria of a significant regulatory action under E.O. 12866 as supplemented by E.O. 13563. Therefore, the Office of Management and Budget (OMB) has not reviewed this rule under those orders.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), AMS has considered the economic impact of this action on small business entities.

The proposed rule would affect dealers that purchase more than \$100,000 in cattle, hogs, sheep, goats, horses, or mules annually. It would also affect livestock producers, other dealers, and livestock auctions from which the dealers purchased livestock.

The Small Business Administration (SBA) defines small businesses by their North American Industry Classification System (NAICS) codes. Livestock dealers and livestock auctions would be classified as NAICS code 424520 — Livestock Merchant Wholesalers, which includes all livestock dealers except dealers in horses and mules, and code 424590 — Other Farm Product Raw Material Merchant Wholesalers.¹ For both classifications, SBA defined a small business as one with 100 employees or fewer.²

¹ Office of the President, OMB. “North American Industry Classification System United States, 2017,” pp. 336 – 337. https://www.census.gov/naics/reference_files_tools/2017_NAICS_Manual.pdf.

² “Table of Small Business Size Standards Matched to North American Industry Classification System Codes,” Small Business Administration, effective August 19, 2019, p. 24. https://www.sba.gov/sites/default/files/2019-08/SBA%20Table%20of%20Size%20Standards_Effective%20Aug%2019%2C%202019_Rev.pdf.

Livestock dealers, including livestock auctions, are required to register and file annual reports with AMS. In 2017 and 2018, 3,015 livestock dealers purchased more than \$100,000 in livestock for their own account or for the account of others.³ Livestock dealers do not disclose the number of employees in their annual reports, but based on its familiarity with the industry, AMS estimates at most three or four firms had more than 100 employees. At least 99.8 percent would be small businesses under the SBA definition.

Producers selling livestock would be classified as NAICS codes: 12111 — Beef Cattle Ranching and Farming, 112210 — Hog and Pig Farming, 112410 — Sheep Farming, 112420 — Goat Farming, and 112920 — Horses and Other Equine Production. For each producer classification, SBA defined a small business as one with \$1 million or less in annual receipts.⁴

The 2017 Census of Agriculture categorizes cattle producers, hog producers, sheep and lamb producers, and horse and mule producers by the size of their operation. The Census of Agriculture tables categorize producers' sales by number of head not the value of their receipts, but data from the tables enable AMS to make a rough estimate of the number of producers that would qualify as small businesses as defined by SBA.

Census of Agriculture tables indicate that 711,827 farms reported sales of cattle or calves in 2017, of which 704,776 (99 percent) produced fewer than 1,000 head, averaged less than \$1 million in sales, and would be small businesses.⁵ Of the 64,871 hog farms reporting sales, the 57,084 farms (88 percent) that produced fewer than 5,000 head would

³ USDA, AMS. "Report Pursuant to Section 12103 of the Agriculture Improvement Act of 2018: Study to Determine the Feasibility of Establishing a Livestock Dealer Statutory Trust." December 20, 2019, p. 39. <https://www.ams.usda.gov/sites/default/files/media/LivestockDealerStatutoryTrustSenttoCongress.pdf>.

⁴ "Table of Small Business Size Standards Matched to North American Industry Classification System Codes," Small Business Administration, effective August 19, 2019, pp. 2 - 3.

⁵ USDA, National Agricultural Statistics Service (NASS). "2017 Census of Agriculture: United States Summary and State Data" Volume 1. April 2019, p. 23. https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_US/usv1.pdf.

qualify as small businesses.⁶ Of the 101,387 farms producing sheep and lambs, 101,280 (99.9 percent) would qualify as small businesses.⁷ The Census of Agriculture reported 74,227 farms that sold horses. Of those, 74,065 (99.8 percent) sold fewer than 50 horses, averaged less than \$1 million in sales, and would be considered small businesses. All the 10,435 farms that sold donkeys or mules were small businesses.⁸ The Census did not have sales information for goat producers.

More than 99 percent of the cattle, sheep and lamb, horse, and mule producers were small businesses. Hog production was more concentrated, with only 88 percent qualifying as small businesses. As group, these livestock producers were about 98.5 percent small businesses.

The proposed rule has two new provisions that affect small businesses: 1) The rule outlines how sellers can comply with the statutory requirement of providing written notification to dealers and to the Secretary if they wish to preserve their rights to the dealer trust, and 2) the rule requires dealers to obtain written acknowledgement from the seller that the seller waives their rights to the trust with respect to each particular sale under a credit agreement.

The costs of filing a trust claim would only apply to livestock sellers. There are few requirements. The cost would be the value of the time required to write and send the notification. AMS expects writing and sending the notification would require no more than a half hour of a manager's time. The U.S. Bureau of Labor Statistics estimated the average hourly wage for farmers, ranchers, and other agricultural managers to be \$36.93.⁹ If it takes one half hour to file the claim, filing the claim would cost \$18.47.

⁶ Ibid., p. 24.

⁷ Ibid., p. 25.

⁸ Ibid., p. 26.

⁹ Department of Labor (USDOL), Bureau of Labor Statistics (BLS). Occupational Employment Statistics. "Occupational Employment and Wages, May 2020. 11-9013 Farmers, Ranchers, and Other Agricultural Managers." <https://www.bls.gov/oes/current/oes119013.htm#nat>.

In a review of dealer bond claims filed with AMS from October 2013 through June 2019, AMS found claims against 82 dealers from 184 claimants.¹⁰ If sellers file trust claims at a similar rate as they have filed bond claims in the past, AMS could expect 14.5 incidents in which one or more sellers makes a valid claim against a dealer's trust each year, with an average of 2.25 claimants for each trust incident, or 33 claimants per year. At a cost of \$18.47 for each claim, AMS expects annual costs to the industry to be \$609.51. Since nearly all livestock producers and livestock dealers who might sell livestock to other dealers are small business entities, AMS expects that nearly all of the claimants would be small businesses.

The cost of obtaining a written waiver acknowledgement from the seller would only apply to livestock dealers. AMS provides sample wording for the acknowledgment and expects that obtaining written acknowledgment from the seller would take no more than a half hour of a dealer's time, or \$18.47 for each acknowledgement.

AMS has no data on the number of dealers that purchase livestock with credit agreements, or the number of trust waiver acknowledgements dealers obtain from sellers and maintain. AMS's experience has been that the number of sellers acknowledging they waive their trust rights is relatively small. Sellers are reluctant to extend credit because they would be required to give up their rights to file trust claims or they have not had the financial resources to extend credit. With packer trusts, packers typically have not created separate trust waiver acknowledgements for each transaction. Instead, the waiver acknowledgments tend to cover a number of transactions over a period of time, limiting the number of written trust waivers required.

Regarding dealer trusts, AMS expects that relatively few sellers would enter into credit agreements requiring trust waiver acknowledgments. However, if a dealer must

¹⁰ USDA, AMS. "Report Pursuant to Section 12103 of the Agriculture Improvement Act of 2018: Study to Determine the Feasibility of Establishing a Livestock Dealer Statutory Trust." December 20, 2019, p. 70.

obtain waiver acknowledgments according to proposed § 201.200, AMS expects that the dealer would limit the number of waiver acknowledgments by having a single waiver acknowledgment cover a number of transactions over a period of time. AMS estimates that at most, ten percent (302) of the 3,015 dealers that average annual purchases of more than \$100,000 in livestock would have credit agreements that require trust waiver acknowledgements. Dealers that purchase livestock with credit agreements may also purchase other livestock through cash sales, for which they are not required to obtain trust waiver acknowledgements from sellers. AMS estimates that each dealer that purchases livestock with credit and obtains trust waivers from sellers will only do so with an average of five customers in a year. That amounts to a total cost of \$27,890 for all of the expected trust waivers (302 dealers x 5 waivers/dealer x \$18.47/waiver).

The costs would not be spread uniformly across dealers. Dealers that do not enter into credit agreements would have no costs. Only the estimated ten percent of dealers that purchase livestock under a credit agreement with the seller would need trust waiver acknowledgments. The cost would average \$92 for each dealer that purchases livestock with a credit agreement, which is about 0.1 percent of the minimum amount (\$100,000) of average annual livestock purchases that makes a dealer responsible for obtaining waiver acknowledgments from credit sellers. Costs would likely be correlated with the size of the dealer: smaller dealers that purchase livestock on credit from fewer sellers would have fewer trust waiver acknowledgements.

AMS expects total marginal costs for the two provisions to be \$28,599. Small businesses would be responsible for nearly all of the costs. In 2017 and 2018, livestock dealers that purchased more than \$100,000 in a year purchased a yearly total of \$27.065 billion in livestock.¹¹ Compared to the amount of business that livestock dealers conduct,

¹¹ USDA, AMS. "Report Pursuant to Section 12103 of the Agriculture Improvement Act of 2018: Study to Determine the Feasibility of Establishing a Livestock Dealer Statutory Trust." December 20, 2019, p. 33.

an annual cost of \$28,599 is 0.00011 percent of total dealer livestock purchases.

Accordingly, AMS has determined that this action would not have a significant negative economic impact on a substantial number of these small business entities.

Paperwork Reduction Act

In accordance with the PRA (44 U.S.C. Chapter 35), the information requirements under the regulations have been approved previously by OMB and assigned OMB No. 0581-0308. Changes are necessary in those requirements as a result of this proposed rule.

Title: Preserving Trust Benefits Under the Packers and Stockyards Act

OMB Number: 0581-NEW.

Expiration Date of Approval: 3 years from approval.

Type of Request: Intent to seek approval to conduct a new information collection.

Abstract: The Packers and Stockyards Act, 1921 (Act) (7 U.S.C. 181 *et seq.*), was recently amended by the addition of section 318 (7 U.S.C. 217b), establishing a statutory trust for the benefit of unpaid cash sellers of livestock. Under the amended Act, livestock dealers whose average annual purchases of livestock exceed \$100,000 must hold all inventories of and receivables and proceeds from livestock purchased in cash sales in trust for the benefit of all unpaid cash sellers of that livestock until the cash sellers have been paid in full.

Under the new statutory trust provisions, livestock sellers lose their interest in the trust unless they notify livestock dealers and the Secretary of Agriculture (Secretary) in writing that payment has not been received. Such notice must be provided within 30 days of the final date when payment was due or within 15 days of notice that a dealer's payment instrument has been dishonored. The statute further provides that trust provisions apply only to cash sales, which are defined in the statute as sales in which the seller does not expressly extend credit to the buyer. Thus, livestock sellers have no claim against the trust if they have extended credit to the buyer.

AMS seeks approval for a new information collection related to the livestock dealer trust to implement new regulatory requirements. Livestock dealers who purchase livestock under credit terms and whose average annual purchases of livestock exceed \$100,000 must obtain written acknowledgements from sellers that trust benefits do not pertain to credit sales. Dealers must provide copies of the acknowledgements to sellers and must retain the acknowledgements for two years after the expiration of the subject credit agreements. Additionally, a livestock seller who has not received payment in full for cash livestock sales must notify both the dealer and the Secretary of Agriculture in writing and within specified timeframes that the seller has not received full payment and intends to preserve their interest in the dealer trust. Providing such notice to the Secretary will enable USDA to initiate enforcement investigations and further actions as necessary.

Authority:

- In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and
- The Packers and Stockyards Act, 1921 (7 U.S.C. 181 *et seq.*), as amended.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 to 30 minutes.

Respondents: Livestock dealers and sellers.

Estimated Number of Potential Respondents: 335.

Estimated Total Potential Annual Responses: 1,845.

Maximum Estimated Total Annual Burden on All Respondents: 847 hours.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity

of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to the following address:

- Internet: www.regulations.gov.

All written comments should be identified with the docket number AMS-FTPP-21-0015 and should reference the date and this issue of the **Federal Register**. All comments will be posted on the internet and available for viewing at www.regulations.gov.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Upon approval by OMB, this information collection would be merged with the information collection currently approved for the Packers and Stockyards Division – OMB No. 0581-0308.

Reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Should additional changes become necessary, they would be submitted to OMB for approval.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this proposed rule as not a major rule as defined by 5 U.S.C. 804(2).

E-Government Act

USDA is committed to complying with the E-Government Act (44 U.S.C. 3601 *et seq.*) by promoting the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 13175

This proposed rule has been reviewed under E.O. 13175 – Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have tribal implications. AMS has determined that this proposed rule is unlikely to have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Executive Order 12988

This proposed rule has been reviewed under E.O. 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to judicial challenge to the provisions of this proposed rule.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Comments are due [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. All comments submitted by the deadline will be considered before finalizing this proposed rule.

Additional regulations pertaining to the new livestock dealer trust will be considered in a separate rulemaking action.

List of Subjects

9 CFR Part 201

Confidential business information, Reporting and recordkeeping requirements, Stockyards, Surety bonds, Trade practices.

9 CFR Part 203

Reporting and recordkeeping requirements, Stockyards.

For the reasons set forth in the preamble, AMS proposes to amend 9 CFR chapter II as follows:

PART 201 – ADMINISTERING THE PACKERS AND STOCKYARDS ACT

1. The authority citation for 9 CFR part 201 continues to read as follows:

Authority: 7 U.S.C. 181 – 229c.

2. Amend § 201.200 by:

- a. Revising the section heading;
- b. Redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively;
- c. Adding new paragraph (b);
- d. Revising newly redesignated paragraph (c); and
- e. Removing the parenthetical authority at the end of the section.

The revisions and addition read as follows:

§ 201.200 Sale of livestock on credit.

* * * * *

(b) No dealer whose average annual purchases of livestock exceed \$100,000 shall purchase livestock on credit unless:

(1) Before purchasing livestock on credit, the dealer obtains from the seller a written acknowledgement that includes the information described in this paragraph

(b)(1).

(i) The following statement:

On this date I am entering into a written agreement for the sale of livestock on credit to _____, a dealer, and I understand that in doing so I will have no rights under the trust provisions of section 318 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 217b), with respect to any such credit sale.

(ii) A statement about whether the credit sales agreement covers a single sale; covers multiple sales and remains in effect through a certain date and states the date; or remains in effect until canceled in writing by either party.

(iii) The date the seller signed the agreement.

(iv) The seller's signature.

(2) The dealer retains the written acknowledgment, together with all other documents, if any, setting forth the terms of credit sales on which the purchaser and seller have agreed, and the dealer retains a copy thereof, in their records for such time as is required by any law, or by written notice served on the dealer by the Administrator, but not less than two calendar years from the date of expiration of the written agreement referred to in the acknowledgment.

(3) The dealer provides a copy of the acknowledgment to the seller.

(c) Purchasing livestock for which payment is to be made by a draft which is not a check shall constitute purchasing such livestock on credit within the meaning of paragraphs (a) and (b) of this section. (See also § 201.43(b)(1).)

* * * * *

PART 203 – STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT

3. The authority for 9 CFR part 203 continues to read as follows:

Authority: 7 CFR 2.22 and 2.81.

4. Revise § 203.15 to read as follows:

§ 203.15 Trust benefits under sections 206, 207, and 318 of the Packers and Stockyards Act.

(a) Within the times specified under sections 206(b), 207(d), and 318(b) of the Act, any livestock seller, live poultry seller or grower, to preserve their interest in the statutory trust, must give written notice to the appropriate packer, live poultry dealer, or livestock dealer and file such notice with the Secretary within the prescribed time by letter, fax, email, or other electronic transmission. The written notice should provide:

(1) Notification to preserve trust benefits:

(2) Identification of packer, live poultry dealer, or livestock dealer;

(3) Identification of seller or poultry grower;

(4) Date of the transaction;

(5) Date of seller's or poultry grower's receipt of notice that payment instrument has been dishonored (if applicable); and

(6) Amount of money due; and to make certain that a copy of such letter, fax, email, or other electronic transmission is filed with a PSD regional office or with the PSD headquarters office within the prescribed time.

(b) While the information in paragraphs (a)(1) through (6) of this section is desirable, any written notice which informs the packer, live poultry dealer, or livestock dealer, and the Secretary that the packer, live poultry dealer, or livestock dealer has failed to pay is sufficient to meet the statutory requirement in paragraph (a) of this section if it is given within the prescribed time.

(c) For purposes of administering statutory trusts under the Act, a *cash sale* means a sale in which the seller does not expressly extend credit to the buyer.

(Approved by the Office of Management and Budget under control number 0581-0308)

Erin Morris,

Associate Administrator,

Agricultural Marketing Service.

[FR Doc. 2022-09485 Filed: 5/4/2022 8:45 am; Publication Date: 5/5/2022]